

HIGH IMPACT DEVELOPMENT ORDINANCE

ARTICLE 1

INTRODUCTION

WHEREAS, the existing Environmental Impact Ordinance was passed in 2003, and sufficient time has elapsed to make a determination as to the effectiveness of that Ordinance; and

WHEREAS, recent High Impact Development activity has revealed confusion and misunderstandings over language and requirements of the 2003 Environmental Impact Ordinance; and

WHEREAS, High Impact Development is a source of significant environmental, community, and human health impacts, the full extent of which the 2003 Environmental Impact Ordinance did not fully consider; and

WHEREAS, business, jobs, and growth are necessary to the economy and continued vitality of Caswell County; and

WHEREAS, industrial land uses, by their very nature, may produce objectionable secondary effects, including aesthetic impact, traffic, noise, odors, vibrations, fumes, light, smoke, and/or other impacts, upon the lands adjacent to them; and

WHEREAS, the existing Ordinance did not adequately address the unique nature of Caswell County, and was not achieving its intended goal of allowing for the placement and growth of industrial land uses, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Caswell County; and

WHEREAS, it is the intent of the Caswell County Board of County Commissioners to repeal the existing Ordinance and replace the existing Ordinance with a more comprehensive Ordinance which is intended to balance the needs of all the citizens of Caswell County; and

WHEREAS, the Caswell County Board of County Commissioners finds that this Environmental Impact Ordinance is consistent with the needs of Caswell County; and

WHEREAS, the Caswell County Board of County Commissioners voted unanimously to construct a High Impact Ordinance Draft and have it presented at the next regularly scheduled meeting of the Caswell County Board of County Commissioners .

**NOW THEREFORE THE BOARD OF COMMISSIONERS OF THE COUNTY OF CASWELL
HEREBY ORDAINS AND ENACTS INTO LAW THESE ARTICLES AND SECTIONS:.**

Section 1. Authority.

The Caswell County Board of Commissioners enacts this Ordinance pursuant to its police powers, as set forth in and authorized by Section 153A-121 (a) of the North Carolina General Statutes; pursuant to its power to regulate businesses as set forth and authorized by Section 153A-134 of the North Carolina General Statutes; pursuant to its power to regulate noise as set forth and authorized by Section 153A-133 of the North Carolina General Statutes; pursuant to its power to regulate solid waste as set forth and authorized by Section 153A-134 of the North Carolina General Statutes; pursuant to its power to regulate explosive, corrosive, inflammable, or radioactive substances as set forth and authorized by Section 153A-128 of the North Carolina General Statutes and pursuant to its planning and zoning powers, as set forth in and authorized by Article 18 of Chapter 153A of the North Carolina General Statutes.

Section 2. Purpose

The following regulations of high impact development are adopted for the purpose of promoting the health, safety, and general welfare of the citizens of Caswell County, and to promote the peace and dignity of the County. The Caswell County Commissioners hereby establish certain criteria relating to high intensity development and associated land uses. These uses by their very nature produce objectionable levels of aesthetic impact, traffic, noise, odors, vibrations, fumes, light, smoke, and/or other impacts upon the lands adjacent to them. These standards shall allow for the placement and growth of such uses, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Caswell County.

Section 3. Territorial Coverage

Pursuant to G.S. §153A-122, this Ordinance shall apply to all unincorporated areas of Caswell County in which no town or city is exercising extraterritorial jurisdiction under Article 19 of Chapter 160A of the North Carolina General Statutes.

ARTICLE 11
REGULATED LAND USES AND EXCEPTIONS

<u>Class I</u>
Fuel Bulk Storage Ready-Concrete Suppliers Inert Debris Landfills
<u>Class II</u>
Soft Mining/Resource Extraction Chemical Manufacturing Alternate Energy Generating Facilities Automobile Salvage & Storage Facilities
<u>Class III</u>
Waste Facilities Chip Mills Race Tracks
<u>Class IV</u>
Hard Mining/Resource Extraction/Quarrying Asphalt Plants Fossil Fuel Generating Facilities Landfills-except inert debris Cement Manufacturing Metal Recycling & Salvage Facilities

Section 2. Exceptions to Applicability

The following are exceptions, by right, from regulations under this Ordinance:

- 1) Agricultural Farming Operations
- 2) Residential Land Uses

Exception from this Ordinance does not grant immunity from other applicable Ordinances including, but not limited to, the Caswell County Noise Ordinance, Watershed Protection Ordinance, Flood Hazard Protection Ordinance, etc.

Section 3. Definitions.

The following definitions shall be used for the purposes of interpreting this Ordinance. For terms not defined below, the common usage of the term shall prevail.

Agricultural Farming Operations means a bona fide farming operation whose primary purpose is the production of agricultural products including but not limited to crops, fruits, Christmas trees, forestry, vegetables, ornamental or flowering plants, dairy, livestock, poultry, swine, and all other forms of agricultural products having a domestic or foreign market. When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm. Included with this definition is the operation, equipment operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.

Area of Operations means the portion of a tract of land on which an industry is situated that is actually under use, or may actually be put to use in the future, for operations by the industry, including the area occupied by buildings, structures, parking, equipment, storage, storm water control measures, and other uses necessary for the business of the industry. Area of operations shall not include required setbacks or those areas required by this Ordinance, or any other regulations, to be kept in a vegetative state.

Asphalt Plant includes establishments, with all related equipment, for the manufacture and production of asphalt and tar paving mixtures and blocks from purchased asphaltic materials (NAICS 324121). Also included in this definition are establishments engaged in manufacturing asphalt and tar paving mixtures and blocks and roofing cements and coatings from purchased asphaltic materials and/or saturating purchased mats and felts with asphalt or tar (NAICS 32412 and 324122).

Assisted Living Facility includes any group housing and services program for two or more unrelated adults, however named, which makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more North Carolina licensed home care or hospice agencies.

Automotive Salvage Facilities includes establishments primarily engaged in the merchant wholesale and retail distribution of used motor vehicle parts and establishments primarily engaged in dismantling motor vehicles for the purpose of selling the parts (NAICS 423 140).

Automotive, Storage Facility includes establishments primarily intended for the short-term or long-term storage of wrecked or inoperative automobiles pending sale of the entire automobile. This definition does not include establishments where the storage of automobiles is ancillary to the repair of the automobiles stored, such as at a garage or repair shop.

Board of Commissioners means the Caswell County Board of Commissioners.

Cement Manufacturing includes establishments primarily engaged in manufacturing portland, natural, masonry, pozzolanic, and other hydraulic cements. . Cement manufacturing establishments may calcine earths or quarry, manufacture, mine or purchase lime (NAICS 327310).

Chemical Manufacturing includes establishments primarily involved in the production, synthesis, formation, processing, refining, manufacturing, and/or distribution of chemical products in bulk, for other than retail sales on-site (including all chemical manufacturing in NAICS subsector 325).

Childcare Facility means a childcare facility as defined in G.S. § 1 10-86 or any successor statute thereto.

Church means any building used on a regular basis for the primary purpose of serving as a place of public worship.

Commercial Use means the use of land for the purpose of operating a business intended to profit, whether or not a profit is actually realized, through the exchange of monies for goods and/or services.

Construction Activities includes any studies, investigations, operations, improvements, or other activities undertaken at the site of a proposed regulated industry pertaining to the construction, placement, erection, or establishment of the same, including but not limited to surveys, soil and other environmental tests, clearing and grading, pouring footers or pads, placing building materials or equipment at the site, locating or constructing buildings, structures, or other improvements, or any other similar activities.

County means the County of Caswell.

D.E.N.R. means the North Carolina Department of Environment and Natural Resources.

D.O.T. means the North Carolina Department of Transportation.

Dragstrip or Race Track includes any commercial facility for the conducting of races of human operated machines (e.g. automobiles, go-carts, lawnmowers or motorcycles).

Dwelling Unit (single and multi-family) means any building, manufactured home, or modular home providing complete independent living facilities for a single or multi-family, including permanent

provisions for living, sleeping, eating, cooking, and sanitation. Two or more manufactured homes which are combined on one lot or parcel shall be considered as a single dwelling unit if they are joined together in one living unit for the use of a single family and meet all of the requirements for a "dwelling unit" under the amended Caswell County Watershed Protection Ordinance.

Educational Facility means any elementary school, secondary school, charter school, private school, community college, college, university, or any other similar institution or facility for the education of persons, including any property owned by such facility used for educational purposes.

Electricity Generating Facility includes any stand-alone plant not ancillary to another land use which is intended for the commercial generation of electric power from any source other than solar, hydroelectric, and wind, including but not limited to fossil fuels, nuclear, or waste products, to be primarily distributed to the public for compensation. This definition shall not apply to an agricultural farm, residence, business, or other facility where the sale of the electricity so produced is secondary to on-site consumption.

Fuel Bulk Storage Facilities includes any establishment whose primary purpose is the wholesale or retail distribution, storage, distribution, mixing, or transfer of flammable or combustible liquids, gases, or solids, received or transferred by truck, train, tank vessel, pipelines, tank car, piping, portable tank or containers, or other method, including propane, methane, ethanol, gasoline, kerosene, oil, coal, and other fuels. This definition shall not include filling stations used solely for distribution to individual consumers; nor shall it include fuel stored at or on an agricultural farm, residence, business, or other facility where use of the fuel stored is limited primarily to on-site consumption (NAICS 424710 and 424720).

Hospital means any facility as defined in G.S. § 13 1 E-76(3) or any successor statute thereto.

Inert Debris means solid waste which consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.

Landfill means a disposal facility or part of a disposal facility where waste is placed in the land with the intent of permanent disposal thereby, and not otherwise regulated by this Ordinance.

Metal Recycling & Salvage Facilities includes establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. Included in this industry are auto wreckers primarily engaged in dismantling motor vehicles for the purpose of wholesaling scrap (NAICS 423930).

Mining includes the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

"Mining" does not include excavation or grading when conducted solely in aid of on-site farming or of onsite construction for purposes other than mining; removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to

determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area; excavation or grading where all of the following apply:

- a) The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion and sedimentation control plan has been approved in accordance with Article 4 of Chapter 1 13A of the General Statutes.
- b) The affected land, including nonpublic access roads, does not exceed five acres.
- c) The excavation or grading is completed within one year.
- d) The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.

Nursing Home means a facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the operator.

Paper Mill comprises establishments primarily engaged in manufacturing paper from pulp. These establishments may manufacture or purchase pulp. In addition, the establishments may convert the paper they make. The activity of making paper classifies an establishment into this industry regardless of the output.

Person means a firm, corporation, general partnership, limited partnership, Limited Liability Company, sole proprietor, individual, individual acting on behalf of another, or any other entity of any type whatsoever.

Planning Board means the Caswell County Planning Board

Planning Department means the Caswell County Planning Department.

Quarrying includes open excavations where the works are visible at the surface and intended for the extraction of stone, slate, marble, or other mineral from a mass of surrounding rock.

Ready-Mix Concrete Suppliers includes establishments, such as batch plants or mix plants, primarily engaged in manufacturing concrete delivered to a purchaser in a plastic and unhardened state, where such establishments are not engaged in mining or quarrying sand and gravel (NAICS 327320).

Renewable Energy Facility includes any stand-alone plant not ancillary to another land use which is intended for the commercial generation of electric power from solar, hydroelectric, and wind to be primarily distributed to the public for compensation. This definition shall not apply to an agricultural farm, residence, business, or other facility where the sale of the electricity so produced is secondary to on-site consumption.

Replacement Value means the cost to restore a structure to its previously existing condition as computed by an appraisal which has been conducted by an appraiser holding a North Carolina State Certified General Real Estate Appraisal License and conducted in compliance with generally accepted practices within the appraisal community.

Residential means the use Of land for the purpose of housing or living accommodations for human occupants. Residential land uses shall also include any accessory uses of the land that is not commercial in nature, as defined by this Ordinance, and incidental to the residential use.

Resource Extraction means the commercial removal of any naturally occurring substance from the land not otherwise covered by the definition of mining and quarrying. Such substances include, but not limited to top soil or fill dirt. Such substances do not include petroleum in any form, natural gas, or other gaseous substance agricultural products, timber, surface or subsurface water, or any renewable resource.

Rural Medical Center means a facility staffed on a regular basis by one (1) or more physicians licensed to practice medicine in the State of North Carolina, which facility is located outside the boundaries of a municipality and is established and maintained for the purpose of providing medical care to members of the community in which it is situated.

Streams means an intermittent or perennial stream, pond, lake, or reservoir whose presence and location has been determined by the North Carolina Division of Water Resources, or if it appears on any of the following types of maps: the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture; the most recent version of the I scales (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS); OR a map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission.

Saw Mill means any permanent commercial establishments primarily engaged in sawing dimension lumber, boards, beams, timbers, poles, ties, shingles, shakes, siding, and wood chips from logs or bolts. Sawmills may plane the rough lumber that they make with a planing machine to achieve smoothness and uniformity of size. Temporary or portable sawmills without permanent structures are excluded from this definition.

Waste Processing Facility includes incinerators, composting facilities, household hazardous waste facilities, waste-to-energy facilities, transfer stations, reclamation facilities or any other location where wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being released into the air or transported to a final disposal site. Specifically included in this definition are medical waste facilities as defined by G.S. § 130A-309.26a.

Section 4. Regulations and Standards

Prior to the issuance of any permit under this Ordinance, the regulated land use must demonstrate compliance with the regulations and standards imposed by this section.

<u>Classification</u>	<u>Min. Lot Size</u>	<u>Building Height</u>	<u>Land Use Spacing</u>	<u>Operations Setback</u>	<u>Stream Setback</u>
Class I	10 acres	40 feet	150 feet	150 feet	100 feet
Class II	20 acres	40 feet	500 feet	250 feet	100 feet
Class III	50 acres	40 feet	1500 feet	750 feet	200 feet
Class IV	300 acres	40 feet	2000 feet	1000 feet	200 feet

A. Minimum Lot Size

No Class I land use regulated by this ordinance shall be situated on a tract of land less than ten (10) acres in size. No Class II land use regulated by this ordinance shall be situated on a tract of land less than twenty (20) acres in size. Class III land uses shall be located on a tract no less than fifty (50) acres in size. Class IV land uses shall be located on a tract no less than three-hundred (300) acres in size.

B. Building Height Limits

In order to allow for adequate fire protection, no building which is intended or used for human occupancy shall exceed a vertical height of forty (40) feet, measured from the top of the foundation (entrance grade) to the highest point of the roof assembly. No more than one (1) occupancy story may be below this entrance grade.

Excluded from this limitation are the following:

- 1 . Water, radio, telephone (including cellular), or television towers or any equipment for the transmission of electricity or communications, or both; and
2. Structures which are slender in nature and minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires, or windmills, provided no part of the structure which is higher than (forty) 40 feet is intended or used for human occupancy.

C. Land Use Spacing & Protected Facilities

All industries regulated by this ordinance shall be required at the time of the issuance of an Intent to Construct permit to meet a minimum spacing requirement from any "protected facility" as

defined by this ordinance. Land use spacing shall be measured in a straight line without regard for intervening structures or objects from the closest edge of the property line of the tract(s) on which the area of operations is located to the nearest improvement currently in use as a protected facility. The purpose of this requirement is to minimize the potential negative impacts of conflicting uses of land.

For the purpose of this ordinance, the following shall be considered "protected facilities":

1. An educational facility
2. A North Carolina licensed child care facility
3. A North Carolina licensed assisted living facility
4. A North Carolina licensed nursing home
5. A public or privately owned hospital
6. A rural medical center
7. A church
8. A dwelling unit
9. Historic landmarks recognized by Caswell County Historic Properties Commission

D. Operations Setback

All industries regulated by this ordinance shall be required to designate and maintain a minimum "operations setback". Operations setbacks shall be measured from the edge of the designated area of operations to the property line of the tract on which the area of operations is located. No area of operations or roads may be located within the operations setback area. Vegetative screening and fencing are allowed.

E. Traffic Impact Analysis

Access to all regulated industries shall be directly from a state-maintained road. No access from a private road shall be allowed.

All industries regulated by this Ordinance shall be required to demonstrate if their proposed high impact use would create an amount of traffic (in terms of vehicle trips per day) that would push the roads by which the industry is gaining access over its practical carrying capacity as defined by the N. C. Department of Transportation (NCDOT). The most updated version of the Institute of Transportation Engineers "Trip Generation Manual" shall be used to determine the average number of daily trips generated by the proposed industry. The regulated industry shall add these projected daily vehicle trips to the most recent traffic counts performed by NCDOT for the surrounding road network.

If the regulated industry will exceed the carrying capacity of the roads which provide access to the property over the practical carrying capacity, then the applicant shall provide a traffic impact analysis (TIA) performed by a N.C. licensed engineer or transportation planner. The

TIA shall provide specific recommendations for the mitigation of impacts from the proposed traffic, acceleration and deceleration lanes, road design standards, shoulder width, stoplights and outlying intersection improvements.

F. Operations Area

Operation of the regulated land use outside of the designated area of operations is prohibited.

The following areas shall not be allowed in the designated area of operation of the regulated industry:

1. Any area located within a special Flood Hazard Area as defined by the current Caswell County Flood Damage Prevention Ordinance.
2. Any area classified as wetlands or woody swamp by the U.S. Army Corp of Engineers.
3. Any area designated by the North Carolina Wildlife Resources Commission as habitat for an identified Species of Greatest Conservation Need (SGCN).

Co-location of other land uses regulated by this Ordinance within the area designated for operation of the regulated industry is not allowed. Each land use required by this Ordinance to designate an area for operation must maintain a separate and distinct operations area.

G. Stream Setbacks

All industries regulated by this ordinance shall be required to maintain a minimum stream setback from any perennial or intermittent stream. Stream setbacks shall be measured from the "area of operations" to the bank of the stream as defined in this ordinance.

H. Landscaping & Screening

All industries regulated by this ordinance shall be required to provide a landscaping/screening plan. The purpose of this requirement is to minimize/mitigate the visual impacts of the land use on adjacent properties as well as to maximize the buffering of noise and particulate matter. Screening shall be a minimum of fifty (50) feet in width for Class I and Class II uses and one hundred (100) feet for Class III uses. For Class I and II uses, the screening shall consist of a minimum of two staggered rows of plantings. For Class III uses, the screening shall consist of a minimum of three staggered rows of plantings. As part of the review process, the Planning Director may, at their discretion, consider existing screening and vegetation on the property. Suggestions for screening plans may be found in Appendix A of this ordinance.

In the event that an applicant is unable to plant required screening and/or landscaping; the applicant may post a bond or certified check in the amount of 1.5 times the engineer's estimate for the proposed plan. Should the applicant fail to install the necessary landscaping/screening,

the County will be entitled to complete the landscaping plan using the proceeds of the bond or certified check.

I. Gating and Fencing

At a minimum, the area of operations of a regulated use shall be completely enclosed by a minimum six (6) foot high fence with a self-locking gate.

J. Lighting

Access ways, walkways and parking areas shall be lighted adequately by lighting fixtures which shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind. Applicants are encouraged to use light shielding and fixtures that are approved by the International Dark Sky Association (IDA) as these fixtures conserve energy, reduce monthly costs, and minimize the impact of light pollution on surrounding properties.

K. Compliance With Other Governmental Requirements

Applicants under this ordinance are required to comply with all other applicable County, State, and Federal regulations. Said regulations include but are not limited to watershed protection, stormwater, erosion control, air quality, water quality, flood protection, building code, and NCDOT requirements. The Planning Director may require the applicant to submit additional information based on the permitting requirements. Failure to submit any additional information required by the Planning Director shall result in the denial or revocation of an Operations Permit.

ARTICLE 111

GRANDFATHERING AND NONCONFORMING USES

Section I. Grandfathering of Existing Uses.

Any regulated land use, as specified in this ordinance, existing and in legal operation upon the date of initial adoption of this Ordinance which does not conform to the requirements hereof shall constitute a nonconforming use. Such nonconforming use may continue at the site of said operations, subject to the provisions of Sections 2, 3, and 4 below. In all cases the burden shall be upon the owner or operator of the nonconforming use to show clear, cogent, and convincing evidence that the use qualifies for such status.

- a. Owners of non-conforming uses shall have a period of one (1) year from the date of adoption of this ordinance to apply, at no cost, for a non-conformance permit which will establish them as a non-conforming use grandfathered under this ordinance. After the initial one (1) year period, industries shall be required to pay a fee for the non-conformance permit, as established by this ordinance. Failure to apply for a nonconformance permit will constitute a violation of the ordinance as set forth in Article V.

- b. As part of the application for a non-conformance permit, the applicant shall be required to submit a site plan of existing operations on the property. For this purpose, the applicant shall not be required to have a site plan drawn by an engineer or surveyor; however it is strongly recommended

Section 2. Alteration or Expansion of Nonconforming Use

A nonconforming use may be altered, added to, expanded, or enlarged at the site of its operations, provided that the real estate used for expansion was owned or leased by the industry prior to the date of initial adoption of this ordinance.

Section 3. Reconstruction of Nonconforming Use.

In cases of damage to a nonconforming use, repairs may be made and the nonconforming use may be continued; provided, that said hazard was not caused by the intentional conduct of the owner or operator; provided further, that in making repairs the owner or operator shall ensure that the footprint(s) of the original building(s) is/are maintained, or, in case of an expansion of the same, that said expansion meets the requirements as specified above. In all other cases of damage to a nonconforming use, the same may be repaired and continued only if permits are obtained pursuant to Article IV and all of the requirements of this Ordinance are met.

Section 4. Discontinuance of Nonconforming Use.

Notwithstanding the provisions of Section 3 above, if a nonconforming use is, for any reason, discontinued for one hundred eighty (180) or more consecutive days, such use may not resume until permits are obtained pursuant to Article IV below and all of the requirements of this Ordinance are met. For purposes of this Section, a regulated use shall not be deemed to be discontinued during such time as the owner or operator thereof has temporarily suspended operations solely due to the seasonal nature of the business.

Section 5. Transfer of Permits & Sales of Nonconforming Uses.

An intent-to-construct or nonconformance permit issued for any use of land regulated by this ordinance runs with the land and may be transferred with the property; provided that all operational permits are maintained as required.

ARTICLE IV

PERMITTING PROCEDURES

Section 1. General

All regulated land uses under this Ordinance shall be required to apply for a permit from the Caswell County Planning Department prior engaging in any construction and/or operational activities..

Section 2. Photo Identification Required

Applicants seeking to obtain a permit under this ordinance shall be required to provide a form of photo identification to the Caswell County Planning Department pursuant to County policy.

Section 3. Pre-Application Meeting Required

The applicant or an authorized corporate officer is required to meet in person with a Planning Staff member to discuss the nature of their application at least 14 days prior to making a formal application and submitting a site plan.

At this pre-application meeting, the applicant shall identify in writing any additional permits which the applicant needs in order to operate the regulated industry and provide a reasonable timeline for obtaining those permits.

Additionally, the applicant shall identify any protected facilities in the spacing area for which a spacing waiver is required.

Section 4. Intent-to-Construct Permits

An Intent-to-Construct Industrial Development Permit shall be required before the owner or operator of a regulated industry commences any construction activities. An Intent-to-Construct Industrial Development Permit is required for each regulated use.

1. Public Hearing and Notice

- a. Upon the certification of a complete application for an Intent-to-Construct Permit, a public hearing on the proposed permit shall be scheduled for the next regular meeting of the Planning Board.
- b. Notice of a public hearing at the Planning Board meeting shall be provided in the following manner:
 - i. The applicant shall cause notice of the public hearing to be published in a newspaper of general circulation in Caswell County not less than 10 days nor more than 25 days before the date fixed for the hearing. The notice to be published is set forth in Appendix G to this Ordinance. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
 - ii. The applicant shall cause notice to be mailed, e-mailed, or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice. This list may be obtained from the Caswell County Clerk to the Board of Commissioners.
 - iii. The applicant shall prominently post a notice of the public hearing on the site proposed for the issuance of the Intent-to-Construct permit in the adjacent public street or highway right-of-way. When multiple parcels are included within the application a posting on each individual parcel is not required, but the applicant shall post sufficient notices to provide reasonable notice to interested persons. The Planning Director must approve placement.

- iv. The applicant shall cause to be mailed a notice of the public hearing by certified mail at the last addresses listed on the county tax abstracts for the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, and provide proof of said mailing to the Planning Director.
 - v. The applicant shall cause to be mailed a notice of the public hearing by first class mail at the last addresses listed on the county tax abstracts for:
 - 1. the owners of all parcels of land abutting that parcel of land as shown on the county tax listing,
 - 2. the owners of all parcels of land as shown on the county tax listing, any portion of which is located within the spacing limit as described in Article II above.
 - 3. the residents of any residential structures located on the parcels listed above
 - 4. the holder(s) of any utility or other easement on the parcel(s) included in the application.
 - vi. The notice of the public hearing shall be mailed by the applicant to those property owners and residents identified above at least 21 days prior to the public hearing. The notice to be mailed is set forth in Appendix G to this Ordinance.
 - vii. The applicant shall produce a list showing all names and addresses to whom a notice of public hearing was mailed, and shall certify that proper notice was given to all required persons or organizations. Improper notice or certification shall be grounds to deny an Intent-to-Construct permit.
- c. The Planning Board shall hold a public hearing on the application for the Intent-to-Construct Permit. At this public hearing, the regulated industry and community members may comment on the application.
 - d. Upon the issuance of an Intent-to-Construct permit, the Caswell County Land Records System or Geographic Information System shall be changed to include a notice reasonably calculated to alert a person researching a particular parcel that the parcel is located within the spacing requirements of a regulated use.

2. Groundwater/ Well Study

Applicants must certify whether any study or analysis of the impacts of the regulated land use on subsurface aquifers, ground water or wells is required to be undertaken by the applicant pursuant to state or federal regulations, or for purposes of applying for any state or federal permit. If such a study is required, then the applicant must submit a copy of the required study or analysis as part of the application for an Intent to Construct Permit.

3. Fees

- a. All applicants shall be required to pay a fee at the time of filing an application as pursuant to the guidelines listed in Appendix F of this ordinance; or as determined by the Caswell County Board of Commissioners during the establishment of the annual

budget for the given fiscal year. Fees established as part of the annual budget shall supersede those listed in this ordinance. All fees are non-refundable.

4. Approval of Intent-To-Construct Permit Applications

- a. All applicants shall be required to submit a site plan for review as part of the permitting process. All site plans shall be drawn to scale by a Registered Surveyor or Engineer pursuant to the guidelines provided in Appendix D of this ordinance.
- b. Upon submission of the site plan and all accompanying documentation, the applicant shall certify that the application package is complete and ready for public hearing.
- c. The Planning Department shall review the site plan based on compliance with the regulations imposed by this ordinance and make a recommendation of approval or denial.
- d. Completed applications shall be presented to the Planning Board for a public hearing and determination of compliance with the requirements of this Ordinance. If the Planning Board determines that the application is compliant with the requirements of this Ordinance, the Planning Board shall forward its approval recommendation to the Board of Commissioners for final approval. If the Planning Board determines that the application is not compliant with the requirements of this Ordinance, the Planning Board shall issue a written determination of its reasons and deny the application.
- e. In cases where the Planning Board recommends approval of an application, the Board of Commissioners shall review the recommendation of the Planning Board and review the application for compliance with the requirements of this Ordinance. If the Board of Commissioners determines that the application is compliant with the requirements of this ordinance, it shall issue the Intent-to-Construct permit. If the Board of Commissioners determines that the application is not compliant with the requirements of this ordinance, it shall deny the application. The decision of the Board of Commissioners may be appealed per Article VI of this Ordinance.
- f. Planning Staff should take no longer than a period of thirty (30) days to review application packages.

5. Appeal of a Denied Application

Within 30 days of the issuance of the written recommendation of denial determination by the Planning Board, the applicant or Planning Director may appeal the decision of the Planning Board to the Board of Commissioners who shall review the written determination of the Planning Board and review the application for compliance with the requirements of this Ordinance. If the Board of Commissioners determines that the application is compliant with the requirements of this ordinance, it shall issue the Intent-to-Construct permit. If the Board of Commissioners determines that the application is not compliant with the requirements of this ordinance, it shall deny the application. The decision of the Board of Commissioners may be appealed per Article VI of this Ordinance.

6. Duration of Intent-to-Construct Permits

- a. Intent-to-Construct Permits authorize the permit holder to begin construction activities within one (1) year of the date of issuance. Delays due to those permitting requirements previously identified in the pre-application meeting shall not be grounds for permit expiration. If construction activities have not been undertaken within this year, then the permit will expire and shall require re-application and review as a new project.
- b. If an Operations Permit pursuant to this Ordinance has not been issued within one (1) year of the issuance of the last permitting requirement identified in the pre-application meeting, then the Intent-to-Construct Permit will expire and shall require re-application and review as a new project.
- c. If, prior to the issuance of an Operations Industrial Development Permit, any changes or amendments are made to an approved site plan which impact the requirements of this ordinance, the changes or amendments must be submitted to the Planning Department for approval. In the event an application is resubmitted with substantial impacts, the Planning Director may require an additional public hearing and re-approval of the application.

Section 5. Operations Permits

A valid Operations Industrial Development Permit shall be required before the owner or operator of a regulated land use commences, continues, or maintains operations of said land use. An Operations Industrial Development Permit is required for each regulated use.

1. Post-Development/As-Built Site Plans

- a. Prior to receiving an Operations Permit, all applicants shall be required to submit a final "as built" site survey to the Caswell County Planning Department. Post-Development site survey shall be drawn by a Registered Surveyor or Engineer pursuant to the guidelines provided in Appendix D of this ordinance. This submission shall consist of two (2) paper copies.
- b. Operations Permits may be approved prior to the completion of required traffic improvements upon the guarantee of said improvements by the owner/operator within an eighteen (18) month period. The County of Caswell may accept surety bond issued by any company authorized to do business in this State, a letter of credit issued by any financial institution licensed to do business in this State, or another form of guarantee that provides equivalent security to a surety bond or letter of credit. All surety instruments shall be made payable to Caswell County. Surety must be in an amount equal to one and one-half times (150%) the cost of making the improvements, whereby such improvements may be made without cost to the public or subsequent purchasers of the property in the event of default

on the part of the owner/operator. Owner/operators are required to obtain a letter from an engineer registered in North Carolina stating the total construction and surety amounts.

2. Final Site Inspection

Prior to issuing an Operations Permit, a final site inspection shall be performed by the Caswell County Planning Department to ensure that development was established in harmony with the approved site plan and the provisions of this ordinance.

3. Other Requirements

- a. Proof of an approved spill containment plan as issued by the Caswell County Fire Marshal.
- b. Proof that all required permits from other governmental or regulatory agencies have been issued.
- c. The Operations permit must be displayed in a conspicuous place where it may be readily observed by the public upon entering the main business structure of the regulated use, if the business is open to public.

4. Appeal of a Denied Operations Permit

In the event that an Operations Permit is denied, the applicant may appeal the Planning Department's decision to the Board of Commissioners pursuant to Article VI of this ordinance.

Section 6. Operations Permit Renewal Required

Operations permits issued under this Ordinance are valid for a period of two (2) years and shall automatically expire, unless renewed. An Operations Industrial Development Permit renewal is required for each regulated use.

1. Renewal Fees

Prior to renewing the permit, the applicant shall be required to submit a renewal fee pursuant to the guidelines listed in Appendix F of this ordinance; or as determined by the Caswell County Board of Commissioners during the establishment of the annual budget for the given fiscal year. Fees established as part of the annual budget shall supersede those listed in this ordinance. All fees are non-refundable.

2. Site Visit Required

A site visit must be conducted by the Caswell County Planning Department prior to issuing a renewed permit. It is the responsibility of the permit holder to schedule a site visit with the Caswell County Planning Department.

3. Other Requirements

- a. **Proof of Tier II reporting, if applicable**
- b. Proof of continued compliance with all requirements of this Ordinance and maintenance of all required permits.
- c. If the permitted location has been the subject of two or more enforcement actions within the renewal period, then the Planning Director, at their discretion, may require a public hearing before the Caswell County Planning Board prior to the renewal of the Operations Permit.

4. Appeal of a Denial of an Operations Permit

- a. In the event that an Operations Permit is denied, the applicant may appeal the Planning Director's decision to the Board of Commissioners pursuant to Article VI of this ordinance.

ARTICLE V

ADMINISTRATION, ENFORCEMENT, AND VIOLATIONS

Section 1. Administration and Enforcement

The Planning Director of the Caswell County Planning Department shall be responsible for the administration and enforcement of this Ordinance.

- a. The Planning Director, or his/her designee, shall determine whether any of the provisions of this Ordinance are or have been violated. If it has been determined that a violation exists, notification shall be sent, in writing, to the person responsible for such violation. All notices shall be sent via Certified mail.
- b. Those found in violation shall be given thirty (30) days to remedy the violation. At the end of the thirty (30) day period, the Planning Director may, at their discretion, grant additional time to obtain compliance provided that the violator has made a good-faith

effort to bring their property into compliance. In no circumstance, unless approved by the Planning Board, shall a person in violation be given more than six (6) months to obtain compliance.

- c. As part of enforcement, the Planning Director may order the discontinuance of illegal use of land, buildings, or structures; the removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; the discontinuance of any illegal work being done; and may take any other action authorized by this Ordinance to insure compliance with, or to prevent violations of, the provisions hereof. .

Section 2. Interference.

It shall be unlawful for any person to interfere with, hinder, or harass the employees, agents, or authorized representatives of the County in the performance of their duties under this Ordinance.

Section 3. Violations; Penalties

- a. Any violation of this ordinance shall result in a non-conformance fee in the amount of \$500, per violation.
- b. Each day's continuing violation of this Ordinance, where applicable, shall constitute a separate and distinct offense.

Section 4. Equitable Enforcement; Order of Abatement

This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, or by an order of abatement, as provided under G. S. § 153A- 123(d) and (e).

Section 5. Cumulative Remedies.

The remedies and penalties for violation of this Ordinance shall be cumulative, and the election of a remedy or enforcement of a penalty by the County hereunder shall not preclude the election of any other remedy or enforcement of any other penalty by the County which may be provided under this Ordinance or by law.

ARTICLE VI

APPEALS

Section 1. Appeal of Permit Denial

1. If an individual has been cited for a violation of this ordinance or has had a permit denied or revoked by the Planning Department, they may appeal the Planning Department's decision to

the Board of Commissioners. Appeals must be submitted, in writing, within 30 days of the notice of violation or notice of denial or revocation. At that time, the applicant's appeal will be placed on the next available Planning Board agenda for the Planning Board to review. The Planning Board will then make a recommendation to uphold or overturn the Planning Department's decision to the Caswell County Board of Commissioners. The Board of Commissioners shall make the final determination to uphold or overturn the Planning Department's decision.

2. Within 30 days of receiving notice, every decision of the Board of Commissioners shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 160A388.
3. In cases of appeals of violations, denials, or revocations of permits, notice shall be provided as required by law.

Section 2. Appeal of a Violation or Revocation of a Permit

1. If an individual has been cited for a violation of this ordinance or has had an active permit revoked, they may appeal the Planning Department's decision to the Board of County Commissioners. Appeals must be submitted, in writing, within 30 days of the notice of violation. At that time, the applicant's appeal will be placed on the next available Planning Board agenda for the Planning Board to review. The Planning Board will then make a recommendation of uphold or overturn the Planning Department's decision to the Caswell County Board of Commissioners. The Board of Commissioners shall make the final determination of uphold or overturn the Planning Department's decision.
2. In cases of appeals of violations or revocations of permits, neither notices to adjacent property owners nor the posting of the site shall be required.

Section 3. Transfer of Permits & Sales of Nonconforming Uses

An intent-to-construct or nonconformance permit issued for any use of land regulated by this ordinance runs with the land and may be transferred with the property; provided that all operational permits are maintained on an annual basis.

ARTICLE VII

SPACING WAIVERS AND VARIANCES

Section 1. Waiver of Land Use Spacing Requirement

In the event a regulated industry cannot satisfy the land use spacing requirement due to the presence of a protected facility, the regulated industry may apply for a waiver of the requirement. This waiver may be granted with the following standards:

- (a) That the use is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare; and
- (b) That the use is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property or that the use or development is a public necessity.

This waiver may be granted, but is not required to be granted, in the discretion of the Board of Commissioners, if the owner(s) in fee of the parcel on which the protected facility exists consents in writing to the operation of the regulated use and the regulated industry is otherwise compliant with all requirements of this Ordinance..

Section 2. Quorum and Vote Required for Variance

The Caswell County Board of Commissioners, as established by N.C.G.S. § 153A-25 et seq. shall hear all requests for variances under this ordinance.

A quorum of the Board, necessary to conduct any business of the Board, shall consist of four-sevenths of the total membership of the Board.

The concurring vote of a simple majority of the total membership of the Board shall be necessary in order to approve an application for a variance.

Section 3. Application of the Variance Power

A variance shall only be allowed by the Board of Commissioners in cases involving practical difficulties or unnecessary hardships. Any authorizing of a variance shall not destroy the intent of the ordinance. Any authorized variance shall be recorded in the minutes of the Caswell County Board of Commissioners. A hardship, as used in the context of this section, shall be considered to be some unique or unusual character of the proposed site, including but not limited to unique size, shape, contour, or distance requirement. An economic hardship to the applicant is not to be considered for a variance.

The Board may grant a variance upon finding that the following conditions exist:

1. Extraordinary and exceptional conditions exist pertaining to the particular place or property in question because of its size, shape, or topography.
2. The variance will not confer upon the applicant any special privileges that are, or would be, denied to other similarly situated individuals.
3. This ordinance would deprive the applicant of rights commonly enjoyed by other similarly situated individuals.
4. The variance would not seriously deter from the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.

5. The special circumstances causing the need for variance(s) are not the fault of the applicant.

The Board may impose reasonable conditions upon the granting of any variance in order to protect the public interest or neighboring property owners and to maintain the spirit of this ordinance. Violation of any such conditions shall be a violation of this ordinance and subject to the penalties set forth in this ordinance.

Section 4. Appeals of Board Actions

Every such decision of the Board of Commissioners shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 160A-388.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Conflict with Other Laws

Wherever the provisions or application of this Ordinance impose higher standards than are required in any other local ordinance or regulation, the provisions or application of this Ordinance shall govern. Wherever the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of this Ordinance, the provisions of such other statute or local ordinance or regulation shall govern.

Section 2. Severability Clause

If any section or specific provision or standard of this Ordinance is found by a court of competent jurisdiction to be invalid, the decision of the court shall not affect the validity of any other section, provision, or standard of this Ordinance.

Sec. 3. Ordinances Rescinded

Upon adoption, this Ordinance shall rescind and replace the Caswell County Environmental Impact Ordinance.

Section 4. Limit of Liability

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

Section 5. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to an industry regulated by this ordinance.

Section 6. Effective Date

This Ordinance shall become effective and in full force upon the date of adoption.

The Caswell County Board of Commissioners hereby adopts this ordinance,

Adopted this the ____ day of _____, 2020.

CASWELL COUNTY BOARD OF COMMISSIONERS

Chairman Rick McVey

Appendix A

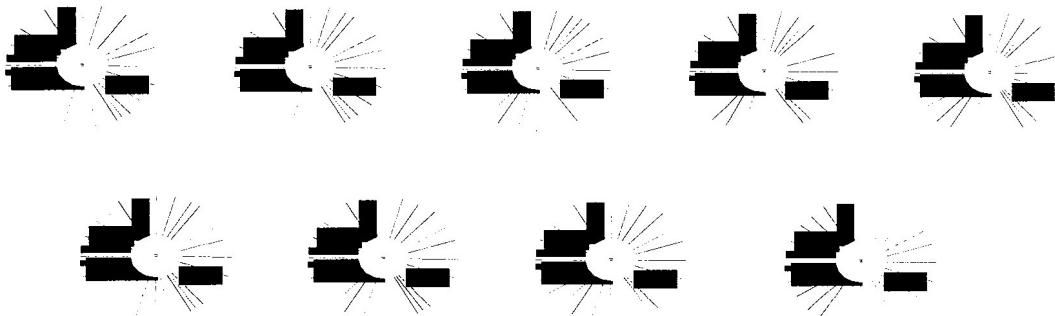
Screening Guidelines and Suggestions

General Guidelines

Screening buffers should be a minimum of fifty (50) feet in width for Class I and Class II Industrial Developments. Screening buffers for Class III Industrial Developments should be a minimum of one hundred (100) feet in width.

Planting for all screening buffers, in general, should be done in a staggered manner with plants set on 8-10 foot centers. Planting may be allowed further apart, depending on the trees, shrubs, and other vegetation involved, at the discretion of the Planning Director. In all cases, the screening should produce a continuous hedge that significantly reduces or eliminates the visual impact of the land use. Existing vegetation may be deemed adequate, based on a site visit and visual inspection.

Ex: Staggered Planting



Suggested Vegetation

Applicants are strongly encouraged to consult with the County Horticulturalist to evaluate the quality of soil and probability of survival and proposed plants; including those suggested in these guidelines. Native species are preferred. Plantings which could be considered invasive are strongly discouraged. The following trees are generally approved for visual screening purposes:

- Loblolly Pine (fast growing, 60-90' mature height)
- Arizona Cypress (medium growth, 40-50' mature height)
- Southern Magnolia (slow to medium growth, 60-80' mature height)
- Cryptomeria Yoshino (fast growing, 50' mature height)
- Tree Hollies (Nellie Stevens Holly, Mary Neil Holly, Emily Brunner Holly, Fosteri Holly, etc. ...
 - (fast growing, 20-25' mature height)

APPENDIX B

High Impact Development Intent-to Construct Permit Application

Caswell County Planning Department

Date: _____

Project Name: _____ Township Name: _____

Contact Person: _____ Parcel I.D. Number: _____

Contact Address: _____ Proposed Use: _____

Acreage of Lot: _____ Property Owner
(If Different) _____

Contact Phone: _____

Describe what the land and/or building(s) will be used for:

Please state the proposed days and hours of operation:

Please state any additional comments you would like to make that you feel may be relevant to the consideration of this application:

By signing this application, the applicant hereby certifies to the best of their knowledge the following statements are true:

1. The industry for which the Permit is being requested will at all times comply with the applicable regulations and standards imposed under this Ordinance.
2. No Permit issued to the applicant under this Ordinance, or under any successor Ordinance hereto, has ever been revoked.

Applicant Signature: _____ Date: _____

Received By: _____ Date: _____

APPENDIX C

High Impact Development Operations Permit

Caswell County Planning Department

Date: _____

Project Name: _____

Township Name: _____

Contact Person: _____

Parcel I.D. Number: _____

Contact Address: _____

Proposed Use: _____

Acreage of Lot: _____

Contact Phone: _____

By signing this application, the applicant hereby certifies to the best of their knowledge the following statements are true:

1. The industry for which the Permit is being requested will at all times comply with the applicable regulations and standards imposed under this Ordinance.
2. No Permit issued to the applicant under this Ordinance, or under any successor Ordinance hereto, has ever been revoked.
3. The proposed industry is properly permitted under and complies with, and at all times will be maintained and operated and will continue to be permitted under, all rules, regulations, and other requirements imposed by D.O.T., D.E.N.R., and any other applicable regulatory agency or governmental body.
4. The applicant is the owner or lessee of the tract or tracts on which the industry is located or is proposed to be located.
5. The applicant has been duly issued an Intent-to-Construct Industrial Development Permit by the Planning Department for the same proposed use, which Permit is still valid as of the date of filing of the application for the Operations Industrial Development Permit.

Applicant Signature: _____

Date: _____

Received by: _____

Date: _____

APPENDIX D

Specifications for High Impact Development Site Plans

Title & General Information

- a. Date of submission.
- b. Location designation (township, county, state).
- c. Name and address of surveyor (Surveyor must sign and seal the site plan).
- d. Scale in figures and bar graph.
- e. North arrow.
- f. Vicinity Map
- g. Surveyor's or Engineer's Seal

Site Data

- a. Name and address of owner(s).
- b. Parcel Identification Number(s)
- c. Name of Project.
- d. Total acreage
- e. Total percentage of proposed and existing impervious surface area.

Project Area (as applicable)

- a. Designated Area of Operations; clearly showing all fencing and existing and/or proposed buildings to be located on the site.
- b. The distance of the Area of Operations from all property lines.
- c. Location of any streams, ponds, or other waterways located on the property.
- d. The distance of the Area of Operations from any stream (perennial or intermittent) located on the property.
- e. Lake and stream buffers.
- f. Location and extent of any marginal land/floodplain.
- g. Representative topography.
- h. Location and purpose of any existing or proposed rights-of-way or easements.
- i. Location of any existing or proposed stormwater control devices.
- j. Location of existing or proposed septic tank and drainage field or public utilities
- k. Design of the parking lot, showing all points of entrance and exit, proposed lot lighting (if applicable), parking stalls, handicapped-parking stalls, and distance between stalls (aisles); including all dimensions.
- l. Location and dimensions of loading berths.
- m. Location of proposed gate and signage.
- n. An exterior lighting plan showing locations of all lighting and proposed lighting fixtures.

APPENDIX E

High Impact Development Ordinance Operations Permit

Permit # _____

Applicant _____

Permitted Use: _____

Date: _____

Expires: _____

Caswell County Planning Manager

APPENDIX F

Proposed Fee Scheduled

Classification	Permit Application Fee	Renewal Fee
Class 1	\$350	\$50
Class 11	\$350	\$50
Class 111	\$350	\$50
Class IV	\$500	\$50
Nonconforming /Grandfathered	\$0	\$50

APPENDIX G

NOTICE OF PUBLIC HEARING

Please take notice that the Caswell County Planning Board will hold a public hearing on DATE at TIME to consider the following:

Application of NAME/CORPORATE IDENTITY for a USE.

This USE will be located at ADDRESS.

Please contact COMPANY CONTACT for more information about NAME or USE.

If you would like to view a copy of the complete application for this proposed USE, please contact the Caswell County Planning Department at NUMBER or view online at: LOCATION.

This public hearing will be held at the Historic Caswell County Courthouse, 144 Court Square, Yanceyville, NC 27379. All interested residents are invited to attend. If any disabled person has a special request for a hearing interpreter or other assistance, please contact the Clerk to the Board at (336) 694-4193.